

REMARKS

Claims 1, 3, 8, 13-16, 18-25, 27-28, 32-33, 36-37, 39, 43, 45-46, 51 and 55-57 have been amended. No new matter has been added. Claims 26, 29-31 and 58-61 have been cancelled without prejudice. Applicants reserve the right to prosecute the subject matter of those claims in a continuing application.

Claim 1 has been amended to include the phrase "comprises a hydrophobic shell material having a melting point above about 45°C." Support for this claim amendment may be found at, for example, p. 28, lines 26-30 of the specification.

Applicants thank the Examiner for pointing out issues with the claims in an attempt to advance prosecution. See Restriction Requirement at p. 4-5. In particular, the Examiner states that claims 39-41, 43, 55 and 58-61 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection. Claims 39-41 and 43 have been amended to depend from claim 37. Claim 55 has been amended to correctly depend from claim 51 which is a process claim. Claims 58-61 have been cancelled without prejudice. Applicants believe that the claims are clear and concise and respectfully request reconsideration and withdrawal of this rejection.

Applicants have further amended claim 37 to provide antecedent basis for the phrase "the encapsulated material." Claim 28 has been amended to correctly depend from claim 27. The claims have been amended to remove multiple dependencies.

RESPONSE TO THE RESTRICTION REQUIREMENT

In response to the outstanding Restriction Requirement mailed January 12, 2010, Applicants elect Group I, claims 1-45, 58 and 59 without traverse. Applicants further elect the species fats from the species set forth in claim 25 for examination. Claims 1-25, 27-28 and 32-45 read on the elected species. Applicants respectfully request the rejoinder of the remaining claims 46-57 in Groups II and III once these elected claims have been found allowable.

Applicants acknowledge reference to Ranum, *Cereal Foods World*, 44(5):370-371 (1999) and reserve comment on this reference if and when a *prima facie* argument of unpatentability is presented with respect to this reference.

Claims 46-57 have been withdrawn.

Claims 1-25, 27-28 and 32-45 are currently pending.

Applicant : Bob Coyne, *et al.*
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CONCLUSION

Applicant believes that the claims are in condition for allowance. A petition for a one-month extension of time is attached.

Should any fees be required by the present Reply, the Commissioner is hereby authorized to charge Deposit Account 19-4293.

Respectfully submitted,

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